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ABSTRACT

This is the conference report by the committee of conference (94th Congress) on the disagreeing votes of the two houses on the amendments of the Senate to the bill (H.R. 9803) to postpone for six months the effective date of the requirement that a child day care center meet specified staffing standards (for children between six weeks and six years old) in order to qualify for Federal payments for the services involved under Title XX of the Social Security Act. The recommended amendment is included and a joint explanatory statement of the committee of the conference. (MS)

94TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 94-885

CHILD DAY CARE SERVICES UNDER TITLE XX OF THE SOCIAL SECURITY ACT

MARCH 9, 1976.—Ordered to be printed

Mr. ULLMAN, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 9803]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9803) to postpone for six months the effective date of the requirement that a child day care center meet specified staffing standards (for children between six weeks and six years old) in order to qualify for Federal payments for the services involved under title XX of the Social Security Act, so long as the standards actually being applied comply with State law and are no longer than those in effect in September 1975, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That (a) the Congress finds and declares—

(1) that the Social Services Amendments of 1974 set standards for child care under the Social Security Act which will require many child care providers to substantially increase their staff over existing levels;

(2) that in such cases compliance with these standards will require a substantial increase in the present level of expenditures for child care; and

(3) that adequate funding to meet these additional child care expenditures required by the Social Services Amendments of 1974 is not presently available.

(b) It is therefore the purpose of this Act to provide the additional funding which will make possible the implementation of the new child care standards without severely curtailing the availability of child care services.

SEC. 2. Section 7(a)(3) of Public Law 93-647 is amended by striking out "February 1," and inserting in lieu thereof "July 1,".

SEC. 3. (a) For purposes of title XX of the Social Security Act, the amount of the limitation (imposed by section 2002(a)(2) of such Act) which is applicable to any State for the fiscal year ending June 30, 1976, or which is applicable to any State for the fiscal period beginning July 1, 1976, and ending September 30, 1976, shall be deemed to be equal to whichever of the following is the lesser:

(1) an amount equal to—

(A) 102 per centum of the amount of the limitation so imposed (as determined without regard to this section) in the case of such fiscal year, or

(B) 108 per centum of the amount of the limitation so imposed (as determined without regard to this section) in the case of such fiscal period, or

(2) an amount equal to (A) 100 per centum of such limitation for such fiscal year or period (as determined without regard to this section), plus (B) an amount equal to the sum of (i) 80 per centum of the total amount of expenditures (I) which are made during such fiscal year or period in connection with the provision of any child day care service, and (II) with respect to which payment is authorized to be made to the State under such title for such fiscal year or period, and (ii) the aggregate of the amounts of the grants, made by the State during such fiscal year or period, to which the provisions of subsection (c)(1) are applicable.

(b) The additional Federal funds which become payable to any State for the fiscal year or fiscal period specified in subsection (a) by reason of the provisions of such subsection shall, to the maximum extent that the State determines to be feasible, be employed in such a way as to increase the employment of welfare recipients and other low-income persons in jobs related to the provision of child day care services.

(c)(1) Subject to paragraph (2), sums granted by a State to a qualified provider of child day care services (as defined in paragraph (3)(A)) during the last quarter of the fiscal year specified in subsection (a) or during the fiscal period so specified, to assist such provider in meeting its Federal welfare recipient employment incentive expenses (as defined in paragraph (3)(B)) with respect to individuals employed in jobs related to the provision of child day care services in one or more child day care facilities of such provider, shall be deemed, for purposes of title XX of the Social Security Act, to constitute expenditures made by the State, in accordance with the requirements and conditions imposed by such Act, for the provision of services directed at one or more of the goals set forth in clauses (A) through (E) of the first sentence of section 2002(a)(1) of such Act. With respect to sums to which the preceding sentence is applicable (after application of the provisions of paragraph (2)), the figure "75", as contained in the first sentence of section 2002(a)(1) of such Act, shall be deemed to read "100".

(2) The provisions of paragraph (1) shall not be applicable—

(A) to the amount, if any, by which the aggregate of the sums (as described in such paragraph) granted by any State during the

fiscal year or fiscal period specified in subsection (a) exceeds the amount by which such State's limitation (as referred to in subsection (a)) is increased pursuant to such subsection for such fiscal year or period, or

(B) with respect to any grant made to a particular qualified provider of child day care services to the extent that (as determined by the Secretary) such grant is or will be used—

(i) to pay wages to any employee at an annual rate in excess of $5,000, in the case of a public or nonprofit private provider, or

(ii) to pay wages to any employee at an annual rate in excess of $4,000, or to pay more than 80 per centum of the wages of any employee, in the case of any other provider.

(3) For purposes of this subsection—

(A) the term "qualified provider of child day care services", when used in reference to a recipient of a grant by a State, includes a provider of such services only if, of the total number of children receiving such services from such provider in the facility with respect to which the grant is made, at least 20 per centum thereof have some or all of the costs for the child day care services so furnished to them by such provider paid for under the State's services program conducted pursuant to title XX of the Social Security Act; and

(B) the term "Federal welfare recipient employment expenses" means expenses of a qualified provider of child day care services which constitute Federal welfare recipient employment incentive expenses as defined in section 50B(a)(2) of the Internal Revenue Code of 1954, or which would constitute Federal welfare recipient employment incentive expenses as so defined if the provider were a taxpayer entitled to a credit (with respect to the wages involved) under section 40 of such Code.

(d)(1) In the administration of title XX of the Social Security Act, the figure "75", as contained in the first sentence of section 2002(a)(1) of such Act, shall, subject to paragraph (2), be deemed to read "80" for purposes of applying such sentence to expenditures made by a State for the provision of child day care services during the fiscal year or fiscal period specified in subsection (a).

(2) The total amount of the Federal payments which may be paid to any State for such fiscal year or fiscal period under title XX of the Social Security Act, with the application of the provisions of paragraph (1), shall not exceed an amount equal to the excess (if any) of—

(A) the amount by which such State's limitation (as referred to in subsection (a)) is increased pursuant to such subsection for such year or period, over

(B) the aggregate of the amounts of the grants, made by the State during such year or period, to which the provisions of subsection (c)(1) are applicable.

SEC. 4. (a) At the earliest practicable date after the date of enactment of this section (but in no event later than 45 days after the date of such enactment) the Secretary of Health, Education, and Welfare shall determine the amount of additional Federal funds (if any) which are needed by the States in order to enable them to comply with the

requirements imposed by or under section 2002(a)(9)(A)(ii) of the Social Security Act—

(1) for the fiscal year ending June 30, 1976, and

(2) for the fiscal period beginning July 1, 1976, and ending September 30, 1976.

(b) If the aggregate of the amounts determined by the Secretary to be needed by the States is equal to—

(1) in the case of the fiscal year ending June 30, 1976, $12,500,000, or

(2) in the case of the fiscal period beginning July 1, 1976, and ending September 30, 1976, $12,500,000,

then the Secretary shall increase the amount of the limitation (imposed by section 2002(a) of the Social Security Act and determined after application of the preceding sections of this Act) applicable to each State which is determined by the Secretary under subsection (a) to be in need of additional funds for such fiscal year or such fiscal period (as the case may be) by an amount equal to the amount of the additional funds so needed by such State for such year or period. If the aggregate of the amounts so determined by the Secretary for such fiscal year or fiscal period (as the case may be) is in excess of the amount specified under clause (1) or (2) of the preceding sentence with respect to such year or period, then the Secretary shall increase the amount of the limitation (referred to in the preceding sentence) of each such State in the manner provided in such sentence, except that the amount of increase of each such State shall be proportionately reduced by such amount as is necessary to reduce the aggregate of the increases to the applicable dollar amount specified in clause (1) or (2) of the preceding sentence. If the aggregate of the amounts so determined by the Secretary for fiscal year or fiscal period (as the case may be) is less than the dollar amount specified under clause (1) or (2) of the first sentence with respect to such year or period, then the Secretary shall increase the amount of the limitation (referred to in the first sentence of this subsection) of each such State in the manner provided in such sentence, and an amount equal to the difference between such dollar amount and the aggregate of the amounts so determined by the Secretary for such fiscal year or fiscal period shall be used to increase, for such year or period, the amount of the limitation (referred to in the first sentence of this subsection) of all States, with the amount of increase applicable to each State being determined on the basis of population in like manner as is prescribed under section 2002(a)(2)(A) of the Social Security Act.

SEC. 5. (a) Section 50A(a) of the Internal Revenue Code of 1954 (relating to amount of credit for work incentive program expenses) is amended—

(1) by adding at the end of paragraph (2) the following new sentence: "The preceding sentence shall not apply to so much of the credit allowed by section 40 as is attributable to Federal welfare recipient employment incentive expenses described in subsection (a)(6)(B).", and

(2) by striking out paragraph (6) and inserting in lieu thereof the following:

"(6) *LIMITATION WITH RESPECT TO CERTAIN ELIGIBLE EMPLOYEES.*—

"(A) *NONBUSINESS ELIGIBLE EMPLOYEES.*—*Notwithstanding paragraph (1), the credit allowed by section 40 with respect to Federal welfare recipent employment incentive expenses paid or incurred by the taxpayer during the taxable year to an eligible employee whose services are not performed in connection with a trade or business of the taxpayer shall not exceed $1,000.*

"(B) *CHILD DAY CARE SERVICES ELIGIBLE EMPLOYEES.*—*Notwithstanding paragraph (1), the credit allowed by section 40 with respect to Federal welfare recipient employment incentive expenses paid or incurred by the taxpayer during the taxabe year to an eligible employee whose services are performed in connection with a child day care services program, conducted by the taxpayer, shall not exceed $1,000.*".

(b) Section 50B(a)(2) of such Code (relating to definitions; special rules) is amended to read as follows:

"(2) *DEFINITIONS.*—*For purposes of this section, the term 'Federal welfare recipient employment incentive expenses' means the amount of wages paid or incurred by the taxpayer for services rendered to the taxpayer by an eligible employee—*

"(A) *before July 1, 1976, or*

"(B) *in the case of an eligible employee whose services are performed in connection with a child day care services program of the taxpayer, before October 1, 1976.*".

(c) The amendments mad by this section with respect to Federal welfare recipient employment incentive expenses paid or incurred by the taxpayer to an eligible employee whose services are performed in connection with a child day care services program of the taxpayer shall apply to such expenses paid or incurred by a taxpayer to an eligible employee whom such taxpayer hires after the date of the enactment of this Act.

SEC. 6. (a) Section 2002(a)(9)(A)(ii) of the Social Security Act is amended—

(1) by striking out "and" at the end of clause (II), and

(2) by adding after the comma at the end of clause (III) the following: "(IV) the State agency may waive the staffing standards otherwise applicable in the case of a day care center or group day care home in which not more than 20 per centum of the children in the facility (or, in the case of a day care center, not more than 5 children in the center) are children whose care is being paid for (wholly or in part) from funds made available to the State under this title, if such agency finds that it is not feasible to furnish day care for the children, whose care is so paid for, in a day care facility which complies with such staffing standards, and if the day care facility providing care for such children complies with applicable State standards, and (V) in determining whether applicable staffing standards are met in the case of day care provided in a family day care home, the number of children being cared for in such home shall include a child of the mother who is operating the home only if such child is under age 6,".

(b) The amendments made by subsection (a) shall, insofar as such amendments add a new clause (V) to section 2002(a)(9)(A)(ii) of the Social Security Act, be effective for the period beginning October 1, 1975, and ending September 30, 1976; and on and after October 1, 1976, section 2002(a)(9)(A)(ii) of the Social Security Act shall read as it would if such amendments had not been made.

SEC. 7. Section 4(c) of Public Law 94-120 is amended to read as follows:

"(c) The amendments made by this section shall be effective on and after October 1, 1975.".

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill, and agree to the same.

AL ULLMAN,
JAMES C. CORMAN,
C. B. RANGEL,
F. STARK,
JOE D. WAGGONNER, JR.,
Managers on the Part of the House.

RUSSELL B. LONG,
VANCE HARTKE,
A. RIBICOFF,
W. F. MONDALE,
W. D. HATHAWAY,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9803) to postpone for six months the effective date of the requirement that a child day care center meet specified staffing standards (for children between six weeks and six years old) in order to qualify for Federal payments for the services involved under title XX of the Social Security Act, so long as the standards actually being applied comply with State law and are no longer than those in effect in September 1975, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House bill provided for the suspension until April 1, 1976, of Federal staffing standards for the care of preschool children in child care facilities receiving funding under the Social Security Act. The Senate amendment provided that these standards will be suspended until July 1, 1976. The conference substitute suspends the standards until July 1, 1976.

The Senate amendment added a statement of findings and purpose to the effect that the new child care standards will require increased expenditures and that the purpose of the bill is to provide funding to meet these added costs. The conference substitute includes this statement.

The Senate amendment added a provision which would increase the $2.5 billion limit on Federal funding for social services programs by $250 million annually beginning with fiscal year 1977 (with $125 million in fiscal year 1976 and $62.5 million for the July-September 1976 transition quarter). The additional funds would be available only for matching State child care expenditures and 80 percent of the funds (prior to the fiscal year beginning October 1, 1977) would be allocated among the States on the basis of State population. The Senate amendment required that the new funds be used in such a way as to increase the employment of welfare recipients and other low-income persons in child care related jobs to the maximum extent feasible as determined by the States. The conference substitute provides that $62.5 million in additional Federal child care funding will be available for fiscal 1976 and $62.5 million for the July-September transition quarter. No funding is provided beyond September 30, 1976.

The Senate amendment permitted States to use a part of the additional funding to reimburse providers of child care for the costs of employing welfare recipients. Under the Senate provisions, the amount payable to a qualified provider could not exceed $4,000 (an additional $1,000 in Federal funding would be available as a tax credit or, in the case of public and nonprofit providers, as a Treasury Depart-

ment payment in lieu of tax credit). These payments could be made only to child care providers having a clientele at least 20% of which is composed of children receiving child care funded under the Social Security Act. The conference substitute generally follows the Senate provision except that payments to public and nonprofit providers could be made up to amounts equal to $5,000 per year per employee. (Such providers would not be eligible for a payment in lieu of the tax credit.)

The Senate amendment provided that the additional social services money available for child care would be eligible for matching State expenditures at an 80% rate rather than the current-law rate of 75%. The conference substitute accepts this Senate provision.

The Senate amendment provided that 20% of the additional funding available in fiscal year 1976, the July-September 1976 transition quarter, and fiscal year 1977 would be allocated by the Secretary of Health, Education, and Welfare to States which he determines to need additional funds because of special difficulty in meeting the child care standards. Funds set aside for special needs but not used would be reallocated on the basis of State population. The conference substitute includes this provision with respect to the additional funding provided for fiscal 1976 and the transition quarter.

The Senate amendment extended the work incentive program expense credit allowed by section 40 of the Internal Revenue Code of 1954 to permit a credit for a portion of the wages paid to an individual who is a Federal welfare recipient who is employed in connection with a child day care services program, and made several other changes in the rules applicable to the computation of the credit allowable for expenses of employing such an individual. Specifically—

(1) the limitation on the amount of the credit allowable for work incentive program expenses under section 50A(a)(2) of the Code, which limits the maximum credit to $25,000 plus 50 percent of tax liability in excess of $25,000, would not apply to so much of the credit as is attributable to Federal welfare recipients employed in connection with a child day care services program;

(2) the amount of the credit allowable for wages paid to any particular Federal welfare recipient could not exceed $1,000;

(3) the credit would be allowed to a State, a political subdivision of a State, or a tax-exempt organization;

(4) the credit is allowed for wages paid to such a Federal welfare recipient after September 30, 1975, and before January 1, 1981; and

(5) the full credit would be refunded to the taxpayer even if the amount of the credit allowed exceeded his tax liability (in the case of a State, a political subdivision of a State, or a tax-exempt organization, the entire amount of the credit would be refunded).

The conference substitute is the same as the Senate amendment, with the following exceptions:

(1) Under the conference substitute, States, political subdivisions of States, and tax-exempt organizations are not eligible for the credit against tax allowed by section 40 of the Internal Revenue Code of 1954 (relating to expenses of work incentive programs).

(2) Under the conference substitute the credit is not refundable in excess of the taxpayer's liability for tax.

(3) Under the conference substitute, the credit is allowed only with respect to wages paid after the date of enactment of the conference substitute and before October 1, 1976.

A taxpayer who intends to claim the credit allowed by section 40 of the Internal Revenue Code of 1954 for the taxable year can, of course, adjust his quarterly payments of estimated tax, or his withholding (in the case of an individual), to take account of the amount of the credit he expects to claim.

The Senate amendment would permit State welfare agencies to waive the Federal staffing requirements in the case of child care centers and group day care homes which meet State standards if the children receiving federally funded care represent no more than 20 percent of the total number of children served (or, in the case of a center, there are no more than 5 such children), provided that it is infeasible to place the children receiving Federally funded care in a facility which does meet the Federal requirements. The amendment would also modify the limitations on the number of children who may be cared for in a family day care home by providing that the family day care mother's own children not be counted unless they are under age 6. This change would apply retroactive to October 1, 1975. The conference substitute accepts the Senate amendment on a temporary basis effective through September 30, 1976.

The Senate amendment added a provision making permanent certain modifications provided under P.L. 94–120 governing funding of services for addicts and alcoholics. The provisions involved (which expired January 31, 1976) require that special confidentiality requirements of the Comprehensive Alcohol Abuse Act be observed with regard to addicts and alcoholics, clarify that the entire rehabilitative process must be considered in determining whether medical services provided to addicts and alcoholics can be funded as an integral part of a State social services program, and provide for funding of a 7-day detoxification period even though social services funding is generally not available to persons in institutions. The conference substitute accepts the Senate amendment.

AL ULLMAN,
JAMES C. CORMAN,
C. B. RANGEL,
F. STARK,
JOE D. WAGGONNER, JR.,
Managers on the Part of the House.

RUSSELL B. LONG,
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Managers on the Part of the Senate.